

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CATHY A. CLACHER,

Defendant-Appellant.

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UNPUBLISHED  
November 5, 2002

No. 234835  
Wayne Circuit Court  
LC No. 99-007234

Before: Talbot, P.J., and Whitbeck, C.J., and Gage, J.

PER CURIAM.

Defendant Cathy Clacher pled guilty, but mentally ill, to manslaughter.<sup>1</sup> The trial court sentenced Clacher to 8 to 20 years' imprisonment pursuant to a plea agreement. On remand from the Michigan Supreme Court, we consider this appeal from Clacher's plea-based conviction as on leave granted. We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

Clacher argues that the trial court asking questions that merely invited a "yes" or "no" response was insufficient to comply with the requirement of MCR 6.302(D)(1) for establishing the factual basis for a guilty plea by questioning a defendant. We disagree. We construe a court rule in accordance with the ordinary and approved usage of the language.<sup>2</sup> MCR 6.302(D)(1) provides that "[i]f the defendant pleads guilty, the court, by questioning the defendant, must establish support for a finding that the defendant is guilty of the offense charged or the offense to which the defendant is pleading." Nothing in this language forbids the use of "yes" or "no" questions to establish the factual basis for a guilty plea. Thus, based on the plain language of MCR 6.302(D)(1), we reject Clacher's position that the rule precluded the trial court from relying on only "yes" or "no" questions in eliciting the factual basis for her guilty plea.

Clacher argues that her statements at the plea proceeding did not establish a sufficient factual basis to support her guilty plea to manslaughter. We disagree. Initially, Clacher argues

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<sup>1</sup> MCL 750.321. While the prosecution in its brief on appeal refers to defendant as having pled guilty to second-degree murder, the record unquestionably reflects that defendant pled guilty to, and was sentenced for, manslaughter.

<sup>2</sup> *People v Holtzman*, 234 Mich App 166, 175; 593 NW2d 617 (1999).

that there was no basis to support a finding of *voluntary* manslaughter. However, Clacher did not plead guilty to voluntary manslaughter in particular, but to the crime of “manslaughter,” which also encompasses involuntary manslaughter. Involuntary manslaughter includes an unlawful act committed with an intent to injure that proximately causes death.<sup>3</sup> Here, Clacher replied affirmatively when asked at the plea proceeding if she stabbed the victim and if he died because he was stabbed. While Clacher asserts that there was no support for a finding that the stabbing was intentional, we believe that, as a matter of common usage, one would not typically say that she had “stabbed” someone if she somehow accidentally hurt another person with a knife. Rather, Clacher’s affirmative reply to a question asking if she stabbed the victim implies an intentional attack. Further, a factual basis to support a guilty plea exists if an inculpatory inference can be drawn from what the defendant admitted, even if an exculpatory inference could also be drawn.<sup>4</sup> Thus, because Clacher’s statements at the plea proceeding supported an inference that she intentionally stabbed the victim resulting in his death, her statements provided a sufficient factual basis to conclude that she committed an unlawful act with an intent to injure that proximately caused the victim’s death. Thus, Clacher’s statements at the plea proceeding supported her guilty plea to manslaughter.

Affirmed.

/s/ Michael J. Talbot  
/s/ William C. Whitbeck  
/s/ Hilda R. Gage

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<sup>3</sup> *People v McCoy*, 223 Mich App 500, 502; 556 NW2d 667 (1997).

<sup>4</sup> *People v Thew*, 201 Mich App 78, 84-85; 506 NW2d 547 (1993).